

**Notice of Allowability**

Application No.

10/756,523

Examiner

Sebastiano Passaniti

Applicant(s)

GIEGERICH, PAUL

Art Unit

3711

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to telephone interview of 04/25/2006.
2. ☒ The allowed claim(s) is/are 10-12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 04/26/06.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**Sebastiano Passaniti**  
Primary Examiner

### **DETAILED ACTION**

This Office action is responsive to a telephone interview with applicant's attorney on April 25, 2006.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dennis Butler (Reg. No. 51,519) on 04/25/2006. During said interview, applicant's attorney proposed amendments to the claims to further highlight the fact that the visual barrier is opaque and that the visual barrier includes a bottom edge that, when combined with the playing surface, provides a gap defined between the bottom edge and the playing surface.

The application has been amended as follows:

#### **IN THE CLAIMS:**

Claim 10 – line 1, “for use” has been CHANGED to --in combination--;

Claim 10 – line 4, “a” has been CHANGED to --an opaque-- ;

Claim 10 – line 5, after “arm”, the phrase -- ,the visual barrier having a bottom edge-- has been INSERTED;

Claim 10 – line 8, after “surface”, the phrase --such that a gap is defined between the bottom edge and the playing surface-- has been INSERTED.

### REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: During the interview on 04/25/2006, applicant's attorney argued that it would not have been obvious to modify the device in the prior art reference to Lyons (U.S. Patent 4,278,252) to include an opaque visual barrier as an opaque coating would destroy the teachings of the Lyons reference, since Lyons requires that a transparent screen be used in order for each player to keep track of the opponent's progress. Applicant's attorney further argued that it would not have been obvious to modify the device in the cited art reference to Traficante (U.S. Patent 4,185,832) by providing the visual barrier with a bottom edge, which in combination with the playing surface, enables a gap to be defined between the bottom edge and the playing surface. It was argued that Traficante relies on the fact that the barrier (13) remain in contact along its bottom edge with the playing surface so that opposing players may not recognize one another's next game movement. These arguments were deemed persuasive and the appropriate language to further highlight the opaque construction and the gap formed by the claimed visual barrier was agreed upon and the claims were indicated as allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sebastiano Passaniti whose telephone number is 571-272-4413. The examiner can normally be reached on Monday through Friday (6:30AM - 3:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S.Passaniti/sp  
April 26, 2006

  
Sebastiano Passaniti  
Primary Examiner